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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,817	07/28/2003	Takashi Murayama	033294-011	4354
21839	7590 04/26/2004		EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			SCHWARTZ, CHRISTOPHER P	
POST OFFICE	E BOX 1404 A, VA 22313-1404		ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

## Examiner Art Unit State Art Unit Christopher P. Schwartz 3683 — The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Estatebase of time may be available under the provisions of 3 °C R1 1.15(e). In no event, however, may a reply be timely filled with \$18 (o) MoNTHS from the realiting date of this communications - If NO period for reply is available under the provisions of 3 °C R1 1.15(e). In no event, however, may a reply be timely filled with \$18 (o) MoNTHS from the realiting of eith of the state of the communications - If NO period for reply is available under the provisions of 3 °C R1 1.15(e). In no event, however, may a reply be timely filled with \$18 (o) MoNTHS from the realiting of eith of this communication - If NO period for reply is available under the provision of this communication - If NO period for reply is available under the provision of this communication - If NO period for reply is available under the provision of this communication - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If NO period for reply is available under the provision - If		Application No.	Applicant(s)	00
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2a) ☐ This action is FINAL. 2b) ☐ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☐ Claim(s) 1/2 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) 1/2 is/are allowed. 6) ☐ Claim(s) 1/2 is/are objected to. 8) ☐ Claim(s) 1/2 is/are objected to. 8) ☐ Claim(s) 1/2 is/are objected to prestriction and/or election requirement. Application Papers 9) ☐ The specification is objected to by the Examiner. 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. **Attachment(s)** 1) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (Informal Patent Application (In	Status			
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Art Unit: 3683

DETAILED ACTION

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Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/629,862 in view of Deem et al.. Regarding claim 1 of the instant application, claim 1 of '862 discloses all the features claimed but lacks the specifics of the wedge mechanism.

The reference to Deem et al. shows the specifics of a wedge mechanism at 38,44,48 and 50.

To have used the wedge device of Deem et al. as the wedge mechanism in the '862 application would have been obvious to one of ordinary skill in the art since it is, for the most part, a conventional wedge mechanism. It therefore would have been obvious to have claimed the specifics of the wedge mechanism as well. Applicant's claim 1 amounts to an obvious variation of this modification.

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This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 rejected under 35 U.S.C. 102(b) as being anticipated by Deem et al.

Regarding claim 1 Deem et al. discloses a wedge operated brake apparatus comprising a piston 34, actuator 60, a wedge transmission 48, a first plate 44, a second plate 38 and a wedge member (end of 48, but not labeled). Note the holder 50.

Allowable Subject Matter

5. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the wedge mechanisms in the references cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Cps 4/21/04